

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CRIMINAL CASE NO. 1:11-cr-00107-MR-1**

UNITED STATES OF AMERICA,

vs.

ROBERT LYLE HITT.

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ORDER

THIS MATTER is before the Court on the Defendant's "Motion to File Late Notice of Appeal" [Doc. 62].

The Defendant seeks an extension of time in which to file an appeal from the Judgment entered on April 3, 2013. [Doc. 62]. Federal Rule of Appellate Procedure 4(b) provides that in a criminal case, "a defendant's notice of appeal must be filed in the district court within 14 days after . . .the entry of ... the judgment ... being appealed[.]" Fed. R. App. P. 4(b)(1)(A)(i). The Defendant's notice of appeal of the Court's April 3, 2013 Judgment therefore should have been filed on or before April 17, 2013. See id.

Rule 4 also provides, in pertinent part, as follows:

Upon a finding of excusable neglect or good cause, the district court may -- before or after the time has expired, with or without motion and notice -- extend the time to file a notice of appeal for a period not to

exceed 30 days from the expiration of the time otherwise prescribed by this Rule 4(b).

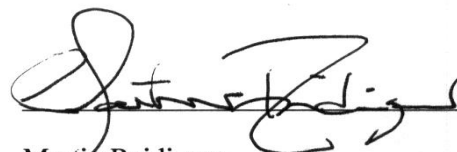
Fed. R. App. P. 4(b)(4). Other than as provided in Rule 4(b)(4), this Court may not enlarge the time for filing an appeal. United States v. Stockton, 240 F. App'x 601, 601 (4th Cir. 2007).

Pursuant to Rule 4(b)(4), the Defendant's motion for extension of time to file an appeal should have been filed no later than May 17, 2013. Because the Defendant's motion was filed well outside of this 30-day window, the Court must deny his motion. See United States v. Raynor, 939 F.2d 191, 197 (4th Cir. 1991) (noting that the time periods contained within Rule 4(b) are "mandatory and jurisdictional").

IT IS, THEREFORE, ORDERED that the Defendant's "Motion to File Late Notice of Appeal" [Doc. 62] is **DENIED**.

IT IS SO ORDERED.

Signed: January 15, 2014


Martin Reidinger
United States District Judge

